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PATENT, TRADEMARK, COPYRIGHT  
AND UNFAIR COMPETITION LAW  
AND RELATED LITIGATION  
  
EDMUND P. WOOD 1923-1968  
TRUMAN A. HERRON 1935-1978  
EDWARD B. EVANS 1936-1971

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September 28, 2004

## FACSIMILE COVER SHEET

To: Commissioner for Patents  
ATTN: Christina Tartera Donnell  
Senior Petitions Attorney  
Fax: 703 872 9306

From: Beverly A. Lyman, Ph.D.  
Re: Serial No.: 10/800,531  
Our File: MRD-64CP

Pages: 9 (including cover sheet)

## MESSAGE/COMMENTS

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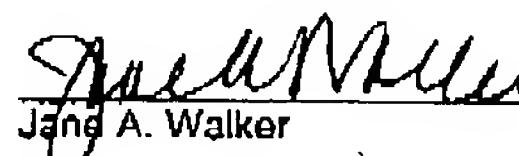
Please file the attached documents:

Renewed Petition - 5 pg  
Attachment A - 2 pg  
Attachment B - 1 pg

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September 28, 2004  
Date

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Serial No.: 10/800,531  
Conf. No.: 2309  
Filed: March 15, 2004  
Group Art Unit: 1616  
Examiner: Unknown  
Applicants: Achilefu et al.  
Title: **RECEPTOR AVID EXOGENOUS OPTICAL CONTRAST  
AND THERAPEUTIC AGENTS**  
Atty Doc. No.: MRD-64CP

Cincinnati, Ohio 45202

September 28, 2004

Office of Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**ATTN: Christina Tartera Donnell  
Senior Petitions Attorney**

Sir:

**RENEWED PETITION UNDER 37 C.F.R. §1.47(a)  
WITH STATEMENT OF FACTS IN SUPPORT**

Applicants renew their Petition Under 37 C.F.R. §1.47(a) regarding the non-signing inventor, which was originally filed on July 27, 2004, and incorporate it in its entirety by reference herein.

This Statement is made as to the pertinent facts that are relied upon to establish the diligent effort made to secure the execution of the Declaration by the nonsigning inventor for the above-identified patent application.

The Statement of Facts is being made by an attorney at law having first-hand knowledge of the facts recited therein. The Declaration is being made by an attorney at law familiar with the law of the jurisdiction and having first hand knowledge of the facts.

#### **IDENTIFICATION OF PERSONS MAKING THE STATEMENT OF FACTS**

Beverly A. Lyman, Ph.D., Esquire  
Wood, Herron & Evans LLP.  
2700 Carew Tower  
441 Vine Street  
Cincinnati, OH 45202

#### **IDENTIFICATION OF PERSON MAKING THE DECLARATION**

Beverly A. Lyman, Ph.D., Esquire  
Wood, Herron & Evans LLP.  
2700 Carew Tower  
441 Vine Street  
Cincinnati, OH 45202

#### **LAST KNOWN ADDRESS OF THE NONSIGNING INVENTOR**

Samuel Achilefu, Ph.D.  
10907 Leighton Court  
St. Louis, Missouri 63146

**STATEMENT OF FACTS**

The nonsigning inventor is a former employee of Mallinckrodt Inc., to whom the invention will be assigned. Attempts by current officials of Mallinckrodt to obtain Dr. Achilefu's signature were unsuccessful. The undersigned representative attempted delivery of the following documents to Dr. Achilefu for his signature:

- Application as filed (specification, claims and drawings);
- Declaration, Power of Attorney and Petition
- Assignment of Invention

The following statement is supported by the following Attachments:

"A" – July 23, 2004 letter to Dr. Achilefu via Federal Express enclosing the application as filed (specification, claims and drawings), and documents for execution; and "B" – Federal Express confirmation of delivery.

**DECLARATION BY  
BEVERLY A. LYMAN, Ph.D., ESQUIRE**

I am a partner with Wood, Herron & Evans, L.L.P. prosecuting the 10/800,531 application for Mallinckrodt.

Dr. Achilefu, the nonsigning inventor, was sent on July 23, 2004 via Federal Express (tracking number 461063467513), a cover letter enclosing the application as filed (specification, claims and drawings), Declaration, Power of Attorney and Petition, and an Assignment of Invention, requesting signature and return by August 2, 2004.

These documents were delivered by Federal Express on July 24, 2004 as evidenced by the tracking slip.

As of today's date, September 28, 2004, the executed documents have not been received from Dr. Achilefu.

Beverly A. Lyman  
Beverly A. Lyman, Ph.D., Esquire

09/28/04  
Date

Based on the foregoing documentation, applicants believe they have complied with all of the requirements, and respectfully request grant of this Petition.

Applicants do not believe any fee is due with this submission. However, if any fees are deemed due, the Examiner is authorized to charge such fees to Deposit Account No. 23-3000.

Respectfully submitted,  
WOOD, HERRON & EVANS, L.L.P.

By: Beverly A. Lyman  
Beverly A. Lyman, Ph.D.  
Reg. No. 41,961

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